

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Troy Nicholas MacDermott,

Case No. 23-CV-3914 (ECT/ECW)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

Federal Bureau of Prisons, BOP; and  
Collette S. Peters, Director, BOP,

Defendants.

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In a letter dated December 29, 2023, the Clerk of Court informed plaintiff Troy Nicholas MacDermott that he would be required to pay the filing fee for this matter or apply for *in forma pauperis* (“IFP”) status within 15 days, failing this matter could be dismissed without prejudice. (*See* Dkt. 3.) That deadline has now passed, and MacDermott has not paid the filing fee or applied for IFP status.<sup>1</sup> In fact, MacDermott has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, consistent with the warning previously given to MacDermott, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under

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<sup>1</sup> MacDermott communicated in a letter to the Court filed along with his complaint that his “wife has agreed to pay” the filing fee for this matter. (Dkt. 2 at 1.) After more than a month, however, that filing fee still has not been received.

Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein,  
**IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: January 30, 2024

*s/Elizabeth Cowan Wright*  
ELIZABETH COWAN WRIGHT  
United States Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).